

ARIZONA CORPORATION FORMAL COMPLAINT



0000109150

April 2, 2010

COMPLAINANT *Rattlesnake Pass, L.L.C.* COMPLAINT NO. 84885

ADDRESS *6045 N. Abington Road Tucson, AZ 85743*

PHONE (HOME) *520 603-8053*

NAME OF RESPONSIBLE PARTY *Greg Mitchell*

PHONE (WORK) *520 603-8053*

NAME OF UTILITY *Tucson Electric Power Company*

ACCOUNT NUMBER *N/A*

ORIGINAL

GROUNDS FOR COMPLAINT: (COMPLETE STATEMENT OF THE GROUNDS FOR COMPLAINT. INDICATING DATE(S) OF
 COMMISSION/OMISSION OR ACTS OR THINGS COMPLAINED OF.) (USE ADDITIONAL PAGE IF NECESSARY.)

See attached

E-01933A-10-0125

RECEIVED
 2010 APR -5 A 9:21
 ARIZONA CORPORATION
 DOCKET CONTROL

NATURE OF RELIEF SOUGHT: (USE ADDITIONAL PAGE IF NECESSARY.)

See attached

Arizona Corporation Commission

DOCKETED

APR 5 2010

DOCKETED BY *[Signature]*

SIGNATURE OF COMPLAINANT OR ATTORNEY

SM, Manager Rattlesnake Pass, L.L.C.

Arizona Corporation Commission Formal Complaint

Complainant: Rattlesnake Pass, L.L.C.
Greg Mitchell, Manager
6045 N. Abington Road
Tucson, AZ 85743

Phone #: 520-603-8053

Complaint Number: 84885

Date: April 2, 2010

Utility Name: Tucson Electric Power Company

Grounds for Complaint:

In August of 2009 Tucson Electric Power Company (TEP) violated ARS 13-1502 (criminal trespass) when TEP trespassed on Rattlesnake Pass, L.L.C.'s (RP) land in order to install an electrical regulator bank within TEP's ten (10) foot wide legal easement. RP does not believe that TEP installed the electrical regulator bank nor can TEP safely service this massive electrical regulator bank without trespassing (repeatedly) on RP's land. After six months of attempting to resolve this issue amicably with TEP, RP notified TEP's Marc Jerden (senior legal counsel) and Eileen Dickerson (T & D Supervisor) officially by letter emailed on February 8, 2010 that TEP's trespassing will not be tolerated. See appendix B for this letter which includes photographs and a thorough review of communication between RP and TEP to date (note that correspondence with TEP prior to 2/8/10 is appended to this letter).

RP has incurred considerable damages as a consequence of TEP violating ARS 13-1502 and overburdening TEP's legal easement. RP's land surrounding this massive electrical regulator bank has been essentially "illegally acquired" by TEP because it is **no longer usable** for its Pima County zoned residential use (hillside development and suburban ranch zone). No home builder would be willing to build a home near these massive electrical transformers because the electrical transformers have devaluating this piece of beautiful property:

1. These massive electrical transformers pose a major safety concern if they malfunction or are struck by lightning resulting in a violent explosion (very common in this area of the Tucson Mountains).
2. These massive electrical transformers emit a very loud continuous buzzing sound – like an angry swarm of killer bees, essentially making any surrounding land within hundreds of feet unbuildable.
3. These massive electrical transformers are equipment normally found in industrial zoned property – certainly not in the front or backyard of a residence (especially at thirty to forty feet above ground level, presenting an unmistakable industrial zone feeling).

RP has also occurred considerable expenses in securing the property because TEP's Mr. Jerden (senior legal counsel) has clearly stated that TEP isn't concerned with not having an adequate legal easement grant for this equipment – he stated “if TEP needs to service it, they will make entry to do so.” Mr. Jerden further stated if RP attempts to have TEP personnel removed for violating state law by trespassing (outside their 10' legal easement), RP will be in violation of ARS 40-431 (preventing agent of public service corporation from examining property). This is certainly not the case as ARS 40-431 is not applicable. RP, after consultation with its legal counsel and the Pima County Sheriff's office, has been forced to take security measures to protect its property (investment) from further damages by TEP. RP will incur costs of around \$10,000 to secure the property, not to mention the tens of thousands of dollars the placement of TEP's massive and noisy electrical regulator bank have caused in property devaluation. If TEP places vehicles or equipment again on RP's land outside their 10' wide easement or gains access through any access point other than where their 10' legal easement abuts the land to the north or Scenic Drive to the south, it will be highly probable that TEP will commit a class 5 felony by violating ARS 13-1604 (Aggravated Criminal Damage).

Below, *in italics*, is essentially the body of the informal complaint letter RP submitted to Jenny Gomez at the ACC on March 10, 2010, which summarizes the current situation and possible remedies:

1. ***Easement Overburden. Public Safety Issue. Rattlesnake Pass, L.L.C.*** *(RP) has repeatedly requested that TEP remove the electrical regulator bank that TEP installed in August 2009. This electrical regulator bank installation is an overburden of TEP's legal easement grant. Although this massive electrical regulation equipment does barely fits within their easement, it requires a much larger easement than the ten (10) feet they currently have legal access to. TEP's existing 10' easement, granted to them in 1942, does not provide them any access outside its 10' width. This means that TEP cannot place any equipment within this 10' that cannot be wholly installed from within the 10' area defined by the easement. The current placement of this electrical regulator bank is a public safety issue because it cannot be adequately serviced by TEP. Two of the three electrical transformer disconnects are placed on the west side of the power poles, and as such, TEP service technicians have less than two (2) feet of room to work without trespassing on RP's land. Furthermore, TEP cannot access the electrical disconnect boxes without placing a ladder in the middle of a rocky wash, which is at least a safety hazard! Clearly, TEP intends to continue trespassing on RP's land to service their equipment.*
- *Mr. Jerden, TEP's senior legal counsel, argues that TEP has the right to use areas outside of TEP's 10' wide easement, without RP's permission. Such is not the case. TEP's easement is for the 10' wide area only – no areas outside the legal easement are explicitly stated or included for installation or maintenance. For TEP to have the legal right to use the surrounding areas of a legal easement, the recorded easement must specifically state “right to outside the easement”. Such is the case for a different TEP easement across this same land parcel. The other legal easement, granted to TEP in 1952 in Book 531 Page 230, specifically*

gives TEP rights outside the easement. It states "...outside of the said 20-foot strip..."

2. **Legal access.** TEP must access their equipment using only the 10' easement granted to them (in 1942). If TEP has been accessing their equipment outside of their 10' legal easement, they have done so without permission or knowledge of the property owner, thus trespassing on RP's land. This illegal trespassing access was brought to RP manager's attention in August 2009 when TEP was finishing up their electrical regulator bank installation. RP has not and does not grant TEP oral or written access to RP's adjacent land and therefore TEP must immediately cease using any land areas outside of their 10' wide easement. For TEP personnel to place equipment (trucks, etc.) or physically be outside their easement but on RP's land is criminal trespassing per ARS 13-1502. TEP has been notified of this illegal trespassing in my letter to TEP's senior counsel, Mr. Jerden, dated 2/8/10. I have had numerous discussions with the Pima County Sheriff's Department regarding this trespassing issue. RP is now forced, at considerable expense, to ensure TEP does not trespass again on RP's property without consequence.
- RP is in the process of securing the property as follows:
 - a. Installing very large custom security gates at both ends of its property where El Paso Natural Gas Company (EPNG) has a private (not for TEP or other public utility use) right-of-way to access their gas pipeline. RP is forced to take this additional security measure because TEP has illegally breached the "livestock" gate that EPNG put up a few years back (EPNG installed the "livestock" gates at RP's request due to repeated saguaro thefts on the property).
 - b. Re-vegetating the eastern most portion of the cleared roadway that EPNG relinquished back to RP in 2005. TEP personnel illegally trespassed and used this area for placement of TEP's crane truck(s) and other heavy equipment when TEP set the electrical regulator bank.
 - c. Of course, RP will not hinder TEP legal access at the south end (at Scenic Drive) or at the north end (where RP's land abuts the land owner to the north). In fact, RP is in the process of facilitating TEP's (legal) access by removing some of the beautiful desert cactuses that would otherwise get destroyed when TEP blades their 10' wide easement.

Even though there are several other options available, TEP has not been willing to discuss possible resolutions to this matter. RP would consider negotiating an easement for a non-elevated electrical regulator bank (outside of their existing easement). RP is also aware that TEP can start the legal process to acquire an adequate easement through the "eminent domain" taking process. Mr. Jerden has stated that TEP is not interested in obtaining an adequate easement for TEP to legally access their equipment. RP is not going to allow TEP to continue to illegally access their equipment. TEP trespassed on RP property in August of 2009 to place this electrical equipment; RP will not allow TEP's employees or equipment on RP's land outside of TEP's legal 10' wide easement again.

Furthermore, Mr. Jerden has discontinued discussion on this matter with RP's manager with his untrue statement about my stating that I surreptitiously record telephone conversations, and his condescending comments about not wanting to discuss the "finer points of regulatory and property law." TEP has been notified in writing that TEP cannot access their equipment as they originally planned because such access is criminal trespass. IF SOMETHING HAPPENS TO THIS ELECTRICAL REGULATOR BANK, THE SURROUNDING COMMUNITY, INCLUDING MYSELF, IS AT RISK BECAUSE TEP CURRENTLY HAS EXTREMELY LIMITED ACCESS FOR SERVICING IT.

Nature of Relief Sought:

TEP is requested to acquire legal access to service TEP's recently placed electrical regulator bank or relocate the electrical regulator bank where it can be legally accessed.

List of Appendices:

- A: TEP's easement, recorded in 1942, Book 76 of Miscellaneous Records, Page 110. *1 page*
- B: RP letter to TEP, dated 2/8/10. *8 pages*
- C: TEP's senior counsel's (Marc Jerden) response to RP's letter of 2/8/10. *1 page*

This formal complaint filed with the Arizona Corporation Commission against Tucson Electric Power Company is hereby made by the manager of Rattlesnake Pass, L.L.C. this 2nd day of April, 2010.



Greg Mitchell, RP Manager

all
A

Book 96

594 694 1942 ~~TEP~~ TEP

2147 Rev. 5-42

RIGHT-OF-WAY EASEMENT

THIS INDENTURE, made this 15th day of June, 1942, by and between Ruth Neall Pine, as her separate property, party of the first part, and THE TUCSON GAS, ELECTRIC LIGHT AND POWER COMPANY, a corporation, party of the second part;

WITNESSETH: That the party of the first part, for and in consideration of the sum of \$ one and no/100 ..., lawful money, and other valuable considerations, receipt whereof is hereby acknowledged, has granted and conveyed, and by these presents does grant and convey unto the said party of the second part, its successors and assigns, a right-of-way or easement in, on, through, over and across the following described lands for the purpose of constructing, operating, and maintaining an electric transmission or distribution line or system thereon:

A strip ten feet (10') wide in the northeast quarter (NE-1/4) of the southwest quarter (SW-1/4) and the east half (E-1/2) of the northwest quarter (NW-1/4) of Section 20, Township 12 South, Range 12 East, G. and S. R. B. and M., Pima County, Arizona, east of and along the east boundary line of the El Paso Natural Gas Company's right of way, as now established.

Said second party is hereby granted the right and privilege to own, construct, operate and maintain said electric line or system in, on, through, over and across said real estate with all poles, cross arms, cables, wires, guys, supports, fixtures, anchors, stays and devices used or useful in the construction or operation of said line, to permit the attachment of wires and fixtures of any other company, and to do all other matters and things convenient or expedient in the construction or operation of an electric line, to construct and maintain telephone circuit, to enter upon said premises at all times, to survey, construct, repair, operate, control and use said lines, to remove objects or obstacles therefrom, to trim trees or other growths interfering or dangerous to the operation of said line, or to remove the whole or any part of said line at the discretion of said party of the second part.

The undersigned covenants that she is the owner of the above described land, and that said lands are free of encumbrances and liens of whatsoever character, except those held by the following persons: None

TO HAVE AND TO HOLD the same unto the said party of the second part, its successors and assigns forever.

IN WITNESS WHEREOF, the said party of the first part has hereunto set her hand and seal the day and year first above written.

Ruth Neall Pine

California
STATE OF ARIZONA }
County of Pima } ss.
Los Angeles }

This instrument was acknowledged before me, the undersigned notary public, by Ruth Neall Pine the 12 day of June 1942.

J.W. Hudson

Notary Public.
(NOTARY SEAL)

My Commission expires:
MY COMMISSION EXPIRES DEC. 19, 1945

Filed and recorded at request of The Tucson Gas, Electric Light & Power Co Jul 13 at 9:59 AM 1942

#7512

COMPARED
Read by mk
Read to PS

Anna Sullinger, County Recorder

By Margaret C. King Deputy
MCK

2147 Rev. 5-42

RIGHT-OF-WAY EASEMENT

THIS INDENTURE, made this 17th day of June, 1942, by and between Carlos G. Robles and Clementine Robles, his wife, parties of the first part, and THE TUCSON GAS, ELECTRIC LIGHT AND POWER COMPANY, a corporation, party of the second part;

WITNESSETH: That the parties of the first part, for and in consideration of the sum of \$ one and no/100..., lawful money, and other valuable considerations, receipt whereof is hereby acknowledged, have granted and conveyed, and by these presents do grant and convey unto

A1

Appendix B₁

Rattlesnake Pass, L.L.C.
6045 N. Abington Road
Tucson, AZ 85743

February 8, 2010

Tucson Electric Power Company
Marc Jerden, Senior Legal Counsel
Eileen Dickerson, T & D Supervisor
mjerden@tep.com, edickerson@TEP.com

RE: Regulator Bank, 9100 Block of North Scenic Drive

Dear Mr. Jerden and Ms. Dickerson,

We have had multiple discussions dating back to August of 2009 regarding the placement of TEP's regulator bank on Rattlesnake Pass, L.L.C.'s (RP) property at 9021 N. Scenic Drive. RP is not satisfied with TEP's resolution (TEP is unwilling to do anything). It is my understanding that TEP believes it has the right to place this equipment where it did. RP is hereby requesting written clarification (both legal and policy reasoning) from TEP for this equipment that RP believes is in violation of TEP's easement recorded in 1942, Book 76 of Miscellaneous Records, Page 110. Although previously requested on multiple occasions, TEP has not yet put their position on this matter in writing. To facilitate an actual resolution, I am requesting an on-site meeting prior to TEP's written response to this letter. My first letter to Eileen Dickerson, dated August 11, 2009, is attached as appendix C.

Policy Concerns:

- The regulator bank's optimum placement location was anywhere along the 1500' stretch of overhead distribution power lines that run from West Twin Peaks to Scenic Drive, parallel to the El Paso Natural Gas line. TEP engineering (Don McAdams) stated that this location (anywhere along this 1500' stretch) is an engineering requirement.
- TEP installed this regulator bank in an unusually hurried manner due to the severity of the voltage drop experienced in Continental Ranch Reserve (Ms. Dickerson referred to the facts causing this rushed equipment placement as a "Perfect Storm").
- Little or no consideration was made regarding exact placement along this 1500' stretch as to aesthetic considerations to motorists traveling in this area or neighboring property owners.
- Although RP has 44 acres of SR zoned land (housing density is one residence per 3.3 acres) surrounding most of the 1500' long optimum placement location, no attempt was made by TEP to contact RP to discuss where, along this stretch, this very unattractive and massive overhead regulator bank could be placed to mitigate its impact to RP's land.
- Mr. Jerden stated that if TEP placed their regulator bank on the north end of this 1500' stretch (as close as possible to Twin Peaks instead of Scenic Drive), the owner of that land would complain about the viewshed in front of his home or future home site. Certainly Mr. Doug Clark (the owner of the adjacent 12 acre parcel to the north) might complain, but he does not have a

B2

home there and the land's topography and numerous power lines crossing his property essentially preclude a future residence.

- TEP trespassed on RP's land to place this equipment. (RP did not grant permission nor was it ever requested).
- With the exception of the conductors, Ms. Dickerson explained that this equipment can be painted to help camouflage it.
- TEP chose not to paint this equipment even though it was being placed on a Pima County Hillside Development Zone (HDZ) lot. Pima County Zoning believes that TEP is legally not required to meet PC's zoning requirements – TEP is statutorily exempt. If TEP is truly exempt, then it appears that such an obvious abuse of that authority needs to be addressed by Pima County officials or the Arizona Corporation Commission (Utilities Division). See response from Pima County Zoning, appendix B.
- TEP has refused requests to make this regulator bank more aesthetically pleasing or relocate it to the north where it will blend in with all the other overhead power utilities. These requests have been made by both RP and the Town of Marana (Lisa Schaffer, Assistant Planning Director). Pictures taken by Ms. Schaffer are in appendix A.

Legal Concerns:

- Easement Overburden. TEP did not legally place this equipment – it trespassed on RP's land while building this facility. In fact, TEP has stated repeatedly that it placed this equipment at this location due to how easy it was to park their service vehicles on RP's land.
- Easement Overburden. TEP cannot legally service this equipment due to the fact that it must trespass on RP's land to do so. RP specifically denies TEP permission to use any land outside of their 10' wide easement. Ms. Dickerson stated that this equipment must be removed and serviced every five (5) years (this was one of her reasons why TEP would not paint the equipment, as she previously thought they TEP would be willing to do).
- Easement Overburden. The width of this 1933 easement is only 10'. The easement does permit "devices" related to electric distribution lines, but massive overhead transformers (and the mechanical structures to support them), such as those already placed, have precluded the development of a substantial portion of RP's land, where the overhead distribution lines themselves did not. The adverse effects of these massive regulators are numerous: safety of the residents, aesthetics, and the very loud audible hum they continuously make.
- Mr. Jerden, in our telephone conversation of last week, you stated the following:
 1. TEP placed their regulator bank equipment without trespassing on RP's land because they used the "Public Utility Easement" that EL Paso Natural Gas uses for their gas transmission lines. Furthermore, you stated that the 60' wide EPNG "Public Utility Easement" is mentioned in TEP's easement. **RP disagrees**; although the TEP easement does mention the EPNG easement, it is mentioned for location purposes only (there is no other legal description in this easement). Specifically, the easement states "...east of and along the east boundary line of the El Paso Natural Gas Company's right of way, as now established." The 60' wide EPNG easement that locates the 10' wide TEP easement is **NOT A PUBLIC UTILITY EASEMENT**. It was specifically granted to Western Gas Company (later succeeded by EPNG) for their gas transmission use only (1933, Book 51 of Miscellaneous Records, Page 125). It is not a Public Utility Easement and therefore

B2

B-3

TEP cannot use it. Furthermore, in November of 2005 EPNG amended their 1933 easement to only 40', thereby relinquishing the eastern 20'. Consequently, TEP's easement no longer abuts the EPNG easement. There should be a 20' gap between the TEP and EPNG easements that is not encumbered by any utility easement(s). However, it appears that TEP's overhead lines are not placed within their easement at all (we need to address this as well).

2. TEP has the right to take this land under Eminent Domain (although Ms. Dickerson previously stated they did not) and therefore our discussion regarding the legality of this regulator bank placement is moot. **RP disagrees**; if TEP wants a legitimate easement for this equipment (one that allows them to legally access it for service purposes), then RP is hereby requesting that TEP start the Eminent Domain "Taking" process, whereby the damages will be appraised and TEP must compensate RP for the damaged caused by an adequate (and legitimate) easement.
3. RP does not have the right to kick TEP personal off of its property when they are trespassing, due to ARS 40-431. **RP disagrees**; ARS 40-431 states the following: 40-431. Preventing officer or agent of public service corporation from examining property; violation; classification
 - A. A duly appointed and authorized officer or agent of a public service corporation may, at all reasonable times, upon exhibiting written authority signed by the president, secretary or manager of the corporation, enter any premises using the product of such corporation for the purpose of inspecting and examining the property of the corporation, or for ascertaining the quantity of its product consumed.
 - B. A person who knowingly prevents or interferes with such officer or agent entering such premises or making such examination or inspection is guilty of a class 2 misdemeanor.TEP has a ten foot wide (10') easement for inspecting and examining their equipment. They do not have the right to trespass outside that easement. Furthermore, on the dates in question in August of 2009 when TEP trespassed on RP's land, they were not examining or inspecting their equipment. TEP personnel were trespassing on RP's land to illegally place TEP equipment.
4. You stated that TEP is not interested in a legitimate, adequate, and legal easement to access its illegally placed equipment. RP has reviewed, with the Pima County Sheriff's Department, what will be necessary, and will be implementing it, to ensure that the next time TEP trespasses on RP land (encroaches outside their 10' wide easement), TEP will be cited for criminal trespass under ARS 13-1502.

In conclusion, RP would like to meet with Mr. Jerden, Ms. Dickerson, and whoever it might be with TEP that is knowledgeable about the logistics of regulator bank installation and service. It is still my hope that we can come to an agreement for a resolution to this matter. Following our meeting at the site, I am requesting a written response from TEP regarding RP's concerns, both legal and policy, discussed in this letter.

Sincerely,



Greg Mitchell, Manager, 603-8053

Cc: Arizona Corporation Commission, Pima County Administrator's Office

B 3

B₄

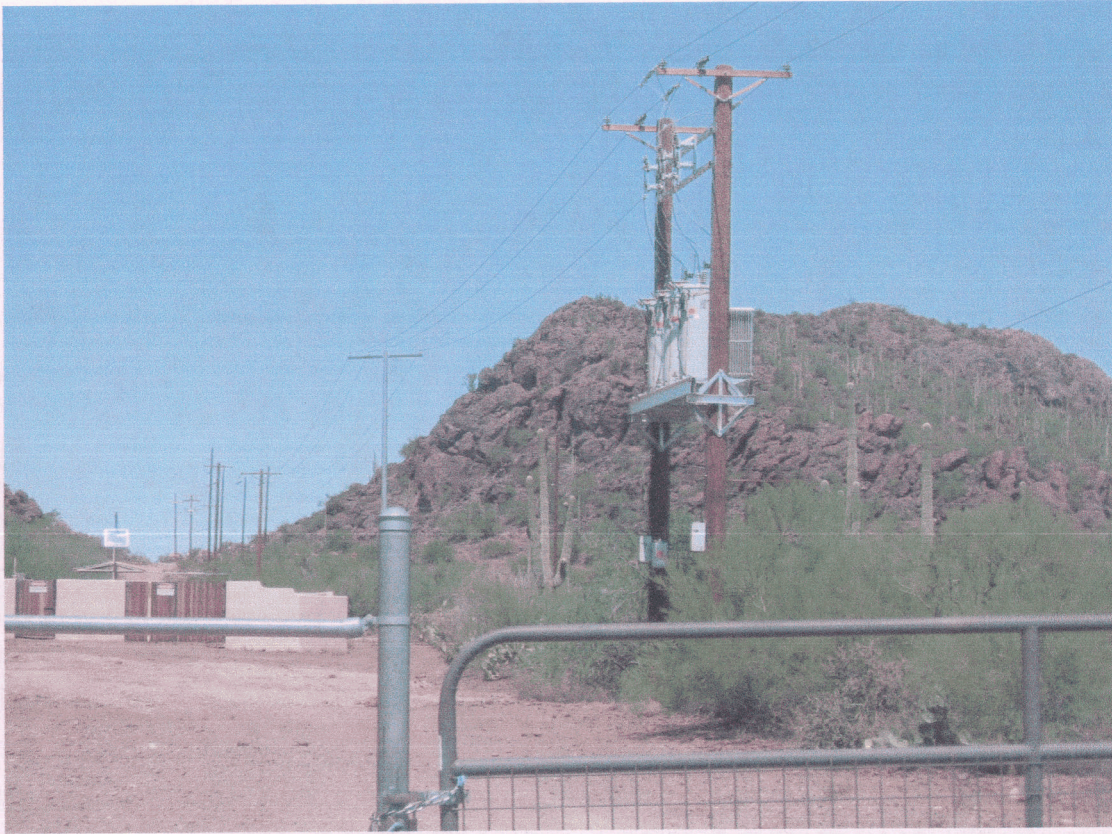
Appendix A

Pictures taken by Lisa Schaffer, Town of Marana Assistant Planning Director



B₄

B5



B 5

B6

Appendix B

Pima County's response to complaint filed

TEP Equipment Installation at 9021 N. Scenic Dr.

Inbox

Tue, Oct 6, 2009 at 7:29 AM

Rick Bruster

<Rick.Bruster@dsd.pima.gov>

To: joeparts1@gmail.com

Cc: Tina Whittemore <Tina.Whittemore@dsd.pima.gov>

[Reply](#) | [Reply to all](#) | [Forward](#) | [Print](#) | [Delete](#) | [Show original](#)

Dear Mr. Mitchell,

Pima County Code Enforcement is in receipt of your complaint (attached) with regard to the installation of electrical equipment attached overhead on utility poles. This office does not issue permits for public utility installations. Public utilities are statutorily exempt from the Pima County Zoning Code in accordance with Section 18.07.040B, that reads in part: "Public Utilities Permitted; Nothing in this code shall prevent the location, erection, alteration or maintenance of pipes, poles, wires, and similar installations necessary to distribute public facilities.

For the reasons stated, the zoning code violation case that was opened as a result of your complaint has been closed.

Regards,

Rick Bruster
Land Use Unit Supervisor
Pima County Development Services
(520) 740-6692
www.pimaxpress.com

B 6

B7

Appendix B, first letter to TEP regarding this regulator bank:

Greg Mitchell
6045 N. Abington Road
Tucson, AZ 85743

August 11, 2009

Eileen Dickerson
T & D Supervisor
Tucson Electric Power Company
edickerson@TEP.com

RE: Mitigation of Aesthetics of Regulator Bank, 9100 Block of North Scenic Drive

Dear Ms. Dickerson,

Thank you for meeting with me yesterday to discuss possible aesthetic mitigation resolutions to the recently installed regulator bank at the 9100 block of N. Scenic Drive. I am hopeful that we can resolve this situation in a timely and most cost effective manner. To help reach that goal, this letter serves to summarize what we talked about yesterday, explain what I believe is objectively the least damaging location for the regulator bank, and present an offer to help TEP offset the costs involved with relocating and repainting the regulator bank equipment.

From our meeting yesterday, I understand the following:

- The regulator bank was needed due to low voltage conditions in Continental Ranch Reserve
- The regulator bank's optimum placement location was anywhere along the 1000' stretch of overhead power lines that run from West Twin Peaks to Scenic Drive, alongside the El Paso Natural Gas line easement. The regulator bank must be located here for it to be effective.
- TEP installed this regulator bank in an unusually hurried manner due to the severity of the voltage drop experienced.
- Little or no consideration was made regarding exact placement along this 1000' stretch as to aesthetic considerations to motorists traveling in this area or neighboring property owners
- Although I have 47 acres of SR zoned land (housing density is one residence per 3.3 acres) surrounding most of the 1000' long optimum placement location, no attempt was made by TEP to contact me to discuss where, along this stretch, this very unattractive and massive overhead regulator bank could be placed to mitigate its impact to my view and my land value.
- With the exception of the conductors, this equipment can be painted to help camouflage it. You will be getting back with me regarding color samples.

Due to the regulator bank's placement on the south end of this 1000' stretch, it is basically in alignment with the entrance to Scenic Drive. Just a few years ago, the Town of Marana reconstructed North Scenic

B 7

B 8

Drive where it meets Silverbell. The Town spent an excessive amount of money designing this entrance to ensure that the beauty of the desert was preserved and that the residents would have an attractive entrance to Scenic Drive. The existing placement of this regulator bank essentially negates this beautiful entrance.

The following is a list of those that are adversely affected by this unsightly equipment where it is currently located on the south end, but would not be affected at all, or only minimally, if the equipment were at the north end:

1. All of the residents that live on North Scenic Drive, when they travel to and from their homes.
2. All of the local Continental Ranch traffic that travels Twin Peaks west to Silverbell Road.
3. All of the motorists that travel Silverbell south (a Pima County Scenic Route) to the intersection of Silverbell and West Twin Peaks.
4. Once the 1-10 / Twin Peaks interchange is completed next year, all of the thousands of motorists daily that will travel Twin Peaks west to Silverbell.
5. Myself, as I look out the window of either of my residences, from my front yards, or as I travel my driveways.

I believe that TEP made an oversight in not fully investigating the least damaging location to place its needed regulator bank along this 1000' stretch. There would be very little impact if it were placed at the north end where there is already multiple power lines crisscrossing the heavily traveled Twin Peaks Road through the pass. Furthermore, there are no residences, nor can any feasibly be built (due to the topography and many utilities) in the area of the north end.

In considering the major impact the south end placement of this regulator bank has caused, and the fact that its placement at the north end would have very little impact, I strongly feel that TEP should relocate and properly paint its equipment at its expense. However, due to the immense damage this has caused my two residences and the 40+ acres of vacant land I am responsible for, I am willing to offer TEP \$2000 to defray some of the costs incurred to correctly locate and paint the equipment at the north end location. I feel this offer is very fair when considering that a more thorough, objective review would undoubtedly have located it there initially.

Lastly, I think the best color to paint the equipment is green. I am certain the green color will blend in best due to all the mature saguaros in this area. Also, to avoid this problem in the future, is there some way that TEP can contact me if they are going to make such a major change to their facilities located on my property? It could be very cost and time productive to have some means of communication open during the design stage of such a major project.

I look forward to working with you on a timely resolution to this matter.

Sincerely,



Greg Mitchell, 603-8053

Appendix C

Gmail [Calendar](#) [Documents](#) [Web](#) [Reader](#) [more »](#)[joeparts1@gmail.com](#) | [Standard View](#) | [Settings](#) | [Help](#) | [Sign out](#)

Search Mail

Search the Web

[Show search options](#)[Create a filter](#)**Compose Mail**[« Back to Inbox](#)[Archive](#)[Report Spam](#)[Delete](#)[« Newer 7 of 104](#)
[Older »](#)**Inbox**[Starred](#) ☆[Sent Mail](#)[Drafts](#)[All Mail](#)[Spam](#)[Trash](#)**Contacts****Labels**[Personal](#)[Receipts](#)[Travel](#)[Work](#)[Edit labels](#)[More Actions...](#)[Go](#)[Collapse all](#)[Print](#)[New window](#)**Scenic Drive property** [Inbox](#)[MJerden@tep.com](#) <[MJerden@tep.com](#)>

Tue, Feb 9, 2010 at 11:38 AM

To: [joeparts1@gmail.com](#)[Reply](#) | [Reply to all](#) | [Forward](#) | [Print](#) | [Delete](#) | [Show original](#)

Mr. Mitchell - This is in response to the letter attached to your email of yesterday.

In the letter, you have misstated or misrepresented nearly everything I have stated in our two telephone conversations. Moreover, the fact that you stated to me that you surreptitiously record all of your telephone conversations with TEP personnel is troubling, and I have thus advised other TEP personnel not to discuss these matters further with you by telephone. I also do not wish to continue to argue the finer points of regulatory and property law with you, and then see my statements mischaracterized in a subsequent writing. TEP remains willing at this point to relocate the equipment you find to be unaesthetic, but only if someone is willing to financially underwrite the relocation, as is the case with any property in any portion of TEP's service territory.

At this point you have two options: if you have a concern that TEP is not constructing its facilities in conformance with the National Electric Safety Code or TEP's ACC-approved Rules and Regulations, you may post an inquiry or complaint with the Commission's Utility Division. If your concern is that TEP has committed some civil wrong, you may consult with an attorney to explore any options you may have for possible redress.

Marc Jerden
Senior Legal Counsel
UniSource Energy Corp.
ph 520.884.3770

—Original Message—

From: g mitchell [<mailto:joeparts1@gmail.com>]

Sent: Monday, February 08, 2010 1:41 PM

To: Jerden, Marc; Dickerson, Eileen

Cc: maura.kwiatkowski@pima.gov

Subject: TEP regulator bank, 9021 N. Scenic Drive

Mr. Jerden & Ms. Dickerson,

Please review the following letter and call me when you get a chance.

C1